



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/806,710	06/07/2001	Christophe Lacroix	ATOCM-202	5960

23599 7590 08/04/2003

MILLEN, WHITE, ZELANO & BRANIGAN, P.C.
2200 CLARENDON BLVD.
SUITE 1400
ARLINGTON, VA 22201

EXAMINER

WOODWARD, ANA LUCRECIA

ART UNIT

PAPER NUMBER

1711

DATE MAILED: 08/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/806 710

Applicant(s)

Examiner

Group Art Unit

— The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address —

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE three MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

☒ R sponse to communication(s) filed on April 4, 2001, April 23, 2001, July 8, 2003

☐ This action is **FINAL**.

☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

☒ Claim(s) 10-28 is/are pending in the application.

Of the above claim(s) 11-14, 19, 20 and 22 is/are withdrawn from consideration.

☐ Claim(s) _____ is/are allowed.

☒ Claim(s) 10, 15-18, 21 and 23-28 is/are rejected.

☐ Claim(s) _____ is/are objected to.

☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.

☐ The drawing(s) filed on _____ is/are objected to by the Examiner

☐ The specification is objected to by the Examiner.

☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

☒ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).

☒ All ☐ Some* ☐ None of the:

☐ Certified copies of the priority documents have been received.

☐ Certified copies of the priority documents have been received in Application No. _____.

☒ Copies of the certified copies of the priority documents have been received

in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

☒ Information Disclosure Statement(s), PTO-1449, Paper No(s). 6

☐ Interview Summary, PTO-413

☒ Notice of Reference(s) Cited, PTO-892

☐ Notice of Informal Patent Application, PTO-152

☐ Notice of Draftsperson's Patent Drawing Review, PTO-948

☐ Other _____

Office Action Summary

DETAILED ACTION

Election/Restrictions

1. Applicant's election of impact polystyrene as ultimate species for component A and ethylene-methyl acrylate-glycidyl (meth) acrylate terpolymer as ultimate species for component C in Paper No. 7 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. Claims 11-14, 19, 20 and 22 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 7.

Claim Rejections - 35 USC § 112

3. Claim 10, 15-18, 21 and 23-28 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 10, line 5, the terminology "comprising essentially", as opposed to "consisting essentially of" is queried.

In claim 10, line 6, the metes and bounds of "low mass" are indeterminate in scope.

In claim 10, the generic styrene polymer (A) overlaps in scope and, as such, does not distinguish, over the styrene-based copolymers defining component (C).

In claim 15, it is unclear if or how the language "optionally containing up to.... unsaturated epoxy" limits the antecedently recited copolymer. Are the acrylate and epoxy

Art Unit: 1711

monomers optional given that such are governed by "up to" which recitation includes zero as a lower limit?

In claims 17 and 28, it is unclear how an epoxy-based terpolymer defines an anhydride-based terpolymer.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 10, 16-18, 23, 24 and 26 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over EP 0242158.

EP '158 discloses a thermoplastic composition comprising 1 to 40 wt% of a polyetheresteramide and 99 to 60 wt% of at least one resin selected from styrene resins. The resin composition may further contain a modified vinyl polymer. Example 11 containing polyetheresteramide, two styrene-based resins and a styrene-maleic anhydride copolymer meets

Art Unit: 1711

the requirements of the present claims, wherein C comprises C1, both in terms of the types of materials added and their contents. The onus is shifted to applicants to establish that the product of the present claims is not the same as or obvious from that set forth by the reference.

7. Claim 10, 15-18, 23, 24 and 26 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over DE 4235505.

DE '505 discloses resin compositions comprising a polyetheresteramide, a vinyl-aromatic graft copolymer and a modified vinyl polymer. Examples 14 and 18 containing polyetheresteramide, a styrene-based resin and an ethylene/glycidylmethacrylate-g-styrene/acrylonitrile copolymer meet the requirements of the present claims both in terms of the types of materials added and their contents. As presently recited, "copolymers of ethylene and of an unsaturated epoxy" reads on the exemplified C-3 copolymer of the reference. The onus is shifted to applicants to establish that the product of the present claims is not the same as or obvious from that set forth by the reference.

8. Claims 10, 15-18, 23, 24 and 26 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over U.S. 6,303,689 (Maillet et al).

Maillet et al disclose a thermoplastic composition comprising a first composition comprising polyetherpolyamide block copolymer, a copolymer of styrene and maleic anhydride and/or a compatibilizing agent and a polyolefin. . Examples 3 and 4 containing polyetheresteramide, a styrene-based resin and an ethylene/glycidylmethacrylate copolymer meet the requirements of the present claims both in terms of the types of materials added and their contents. As presently recited, "copolymers of ethylene and of an unsaturated epoxy" reads on the exemplified D-2 copolymer of the reference. The onus is shifted to applicants to establish

Art Unit: 1711

that the product of the present claims is not the same as or obvious from that set forth by the reference.

Claim Rejections - 35 USC § 103

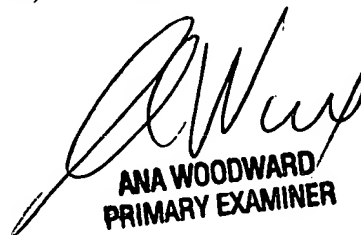
9. Claims 25, 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. 6,303,689 (Maillet et al) described hereinabove.

In essence, the disclosure of Maillet et al differs from the above-rejected claims in not expressly exemplifying applicants' preferred ethylene terpolymer. In this regard, attention is directed to column 4, lines 36-37, which specifically lists ethylene/alkyl acrylate/glycidyl methacrylate terpolymer as a suitable compatibilizing agent. Accordingly, it would have been obvious to one having ordinary skill in the art to have employed said ethylene terpolymer in lieu of the exemplified copolymer with the reasonable expectation of success since both are taught as suitable compatibilizing agents by the reference.

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Ana L. Woodward whose telephone number is (703) 308-2401. The examiner can normally be reached on Monday-Friday (8:30-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James J. Seidleck can be reached on (703) 308-2462. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-8183.


ANA WOODWARD
PRIMARY EXAMINER